May 4, 2016

Senate Energy Committee
Lansing, Michigan

Re: SB 437 (S-2), SB 438 (S-2) – Senate Energy Package

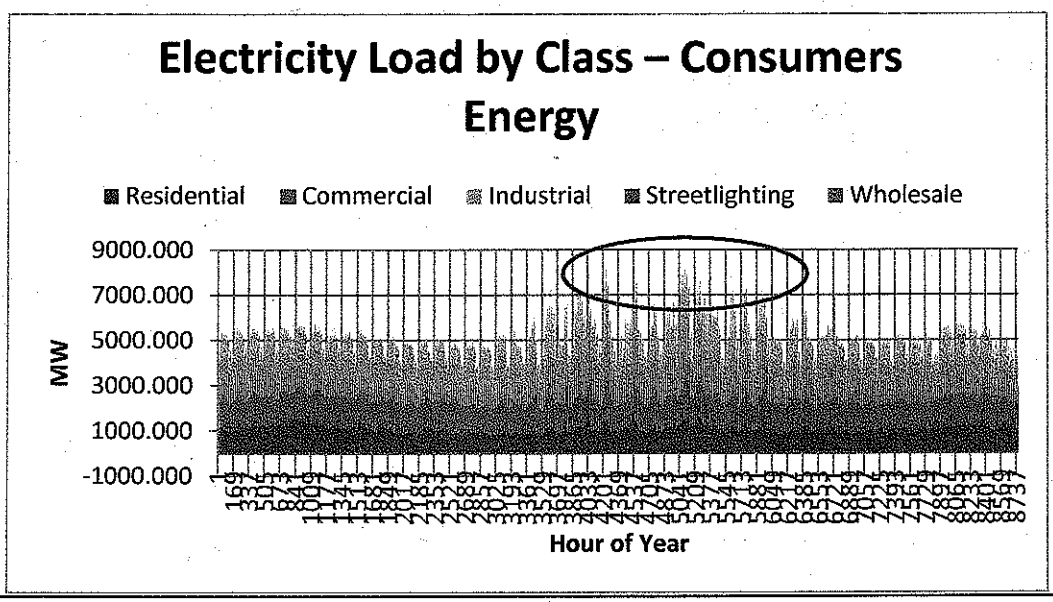
Dear Senators,

The Michigan Environmental Council is a coalition of more than seventy environmental, conservation, and faith-based groups located across the state. In addition, we are one of many non-profit organizations that work to protect residential ratepayers in proceedings before the Michigan Public Service Commission.

Michigan has made significant strides since 2008 to transition its energy sector to cleaner more sustainable systems. Energy efficiency programs are saving ratepayers more than a $100 million per year, and prices for renewable energy are a record lows. **We believe the current versions of SB 437 and SB 438 are a step backwards for energy policy in Michigan.** The bills fail to protect Michigan families and businesses from unreasonable rate increases, fail to protect public health and will impede economic development within the state.

Reliability

First, it is important to remember that our current capacity/reliability discussion is all about 60-80 hours / year – that is the extent of time the last 15% of our capacity is used. Above that amount, MISO requires the state to have another 15% of reserve capacity. Given our current use patterns, that equates to 30% of our capacity being used to meet demand for 1% of the hours of the years. The better we are at shaving peak demand, the more value we gain from our capacity investments.



The debate so far has focused on the contribution of the 10% choice market to this capacity requirement. That's not a trivial amount, but it will not be the primary driver of ratepayer impacts. We believe the debate should be broadened to include what is the least cost method of ensuring we achieve the required capacity requirement. That question represents at least 90% of the potential costs to ratepayers, and is not adequately addressed in the legislation.

Under this legislation and our current energy program, our utilities have a financial incentive to build more new power plants to meet required capacity requirements. That is going to cause rates to continue to skyrocket, especially for residential ratepayers. In truth, ratepayers have already paid for the solution through their $1.1 billion dollar investment in advanced meters. When the utilities sought approval for installation of meters they did cost benefit studies to demonstrate that they were a good investments for customers. In those studies, they projected that the meters would result in over $500 million in savings in meeting future capacity requirements through demand response programs.

The savings will not materialize automatically. It will require utilities following through and creating rate tariffs that change behavior and make those savings happen. In pilot studies, the utilities demonstrated that 40% of residential peak demand could be avoided through time of day rate design. Now is the time to require utilities to achieve the savings they said were possible. Otherwise, ratepayers are paying for meters but not receiving the benefits. Utilities are now arguing they don't want to implement programs until everyone has advanced meters in 2017. We see no reason to delay trying to achieve those costs savings today.

Experts in rate cases have testified that better rate design could save ratepayers over $1 billion dollars by avoiding the need to build 1-2 power plants. This bill should explicitly require the utilities to first exhaust all methods for meeting future capacity requirements before asking for approval to build new power plants to meet those requirements.

Renewable Energy

Public Act 295 of 2008 has been very successful for Michigan. It helped create a renewable energy industry in Michigan from virtually nothing. It facilitated renewable energy prices which are 50% below 2009 and are now cheaper than any other form of power generation in Michigan.

Proponents of repealing our current renewable energy standard are based on the belief that just because renewable are cost competitive utilities will buy it. The good news is that renewable are very cost competitive. The bad news is that utilities are not buying it.

The most recent report of the Michigan Public Service Commission stated that:

> "A recent contract approved by the Commission for new wind capacity has levelized costs lower than $45 per MWh, which is about 10 percent less than the least expensive levelized contract prices from 2011 and half of the levelized cost of the first few renewable energy contracts approved in 2009 and 2010."[1]

[1] Report on the Implementation of the P.A. 295 Renewable Energy Standard and the Cost-effectiveness of the Energy Standards, MPSC, February 12, 2016

Consumers Energy in their investor presentation stated that back-up power for wind energy costs $20 per megawatt hour.[2] That means utilities can currently purchase fully dependable backed-up renewable power at around $65 per megawatt hour. That number is less than the cost of building and operating a new combined cycle natural gas plants and is much less risky because over two thirds of the costs are guaranteed for twenty years into the future and are not dependent on the cost of natural gas.

Similarly, we have seen utility scale solar projects bid in at $55 per megawatt hour. Solar energy in contrast to wind generates significant power during peak summer hours when we need it most.

Despite these record low contract prices, and despite their rhetoric – DTE and Consumers Energy are not actively pursuing any renewable energy in today's market. They are not even performing basic "due diligence" on behalf of their customers by requesting proposals for renewable energy. The attempt in SB 437 to replicate a market price by having the utilities requests bids just prior to filing of an Integrated Resource Plan is flawed because developer know it is not a bona fide attempt to purchase power.

DTE in their latest rate case has only $12 million for "early development" of one 100 MW wind farm that would not be built until 2019. This would represent a mere 0.2% increase in renewable energy per year. Consumers Energy has no money in their most recent proceeding for renewable energy development. In their Investor Presentation they forecast building three 100 MW wind farms over the next decade. This represents an equally dismal 0.25% increase per year. In contrast, utilities could be saving their customers tens of millions of dollars through renewable energy investments.

The changes to the net metering program also undermine small-scale renewable energy development in Michigan. The changes in the bill amount to a homeowner or business owner being required to pay a utility for generating power themselves. Those small investors should be allowed to realize a return on their investments by using their power to serve their personal demand without additional charges.

By failing to create the expectation that utilities increase their use of renewable energy, and by discouraging small-scale solar development, these bills will result in renewable energy developers and talent leaving the state for more renewable-friendly states. It will also discourage businesses whose customers in increasing number are committed to cleaner energy from locating in Michigan.

Ratepayer Protection

Energy Efficiency / Waste Reduction

Between 2009 and 2014, energy efficiency programs helped Michigan customers avoid the use of over 6 million megawatt hours of electricity. In 2014, expenditures of $183 million on the electricity side are projected to result in approximately $700 million in savings over their lifetime. A recent MPSC report documents that it costs $20 per megawatt hour to reduce energy demand, or less than one half the marginal costs of running our current fleet of power plants.

---

[2] CMS Energy, Investor Presentation, April 4-6, 2016, slide 16, http://s2.q4cdn.com/027997281/files/doc_presentations/2016/Investor-Meetings_April-4-6.pdf

Evidence from across the country has demonstrated that reliance on an Integrated Resource Planning process alone results in significantly less savings for ratepayers. The legislature should prevent these programs from being reduced in scope by setting minimum standards for these programs, not by repealing them.

Integrated Resource Planning

Michigan's current law has an integrated resource planning provision embedded within our current certificate of necessity process. Under that process a utility must pursue the path that is the "most prudent and reasonable" from the perspective of ratepayers. The new integrated resources planning process included HB 437 weakens that standard in the following ways:

- Encourages "bait and switch" by the utility – if first plan is denied, the second "amended" plan must be reviewed and approved within 90 days.
- Allows only limited review of a plan modification, without any limit on the potential ratepayer impact of the proposed modification.
- Allows a utility to make a profit on power they don't generate by earning a return on investment for a purchase power agreements.
- Limits the ability to appeal an order of the MPSC regarding an approval or denial of the integrated resource plan.

Managing Risk

Everyone appears to agree that the near-term future of energy involves retirement of older coal-fired capacity and replacing it with a combination of energy efficiency, renewable energy and natural gas facilities. The use of natural gas carries with it significant risks. Under this legislation all of those risks are placed on ratepayers. Those risks include:

- Risk that the price of natural gas will increase significantly due to excessive demand from the electrical generation sector, increased imports to overseas markets (where prices are substantially higher) or transmission constraints. For Michigan residents those risks are multiplied by our reliance on natural gas to heat our homes.
- Risk that overbuilding natural gas fired facilities creates stranded costs due to changes in energy markets, such as energy storage becoming more price-competitive than natural gas-fired peaking capacity to meet fluctuating demand.
- Risk that the contribution of natural gas to greenhouse gas emissions is revised, subjecting natural gas-fired facilities to greater regulatory restrictions in the future.
- Risk that competition for natural gas increases its costs for industrial customers who use natural gas as a feedstock to their operations.

These risks are real, especially due to the financial incentive for utilities to favor building large power plants over smaller, incremental additions to capacity, and the desire of companies affiliated with our utilities to profit on the transportation and storage of natural gas. Michigan needs to do more to encourage the use of renewable energy and protect ratepayers from unreasonable risk.

Other provisions

- SB 438 deletes language which requires utilities to refund excess renewable energy surcharge funds back to the customers who paid it in the first place (page 26, line 2). That language should be amended to require the immediate return of excess surcharges to the customers who paid them. Current estimates place that number as high as $100 million.

Conclusions

This legislation places ratepayers at risk by leaving all decision making to the utilities with limited oversight from the Michigan Public Service Commission. Legislators need to do more to protect Michigan families and businesses from the monopoly power exercised by our public utilities. Failure to guide program development will result in utilities making decisions that place their shareholder concerns above those of Michigan ratepayers, resulting in higher rates for Michigan families. We strongly oppose the current legislation, and urge Senators to make the following changes:

- The bills need to establish a clear renewable energy goal and a clear expectation that utilities will meet that goal unless the price of renewable energy increases more than expected as compared to other sources of energy.

- The bills need to continue the current energy efficiency programs, including both the standards and financial incentives for the utilities to over-perform. Arbitrary limits on the expenditures under this program should be removed.

- The new proposed integrated resource planning process needs to be modified to provide better ratepayer protection.

- The legislation needs to require utilities to demonstrate they are using all methods currently at their disposal to meet capacity requirements before resorting to building costly new power plants.

Sincerely,

James Clift, Policy Director

Sarah Mullkoff, Energy Program Director